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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,858	01/10/2005	Yoshihiro Nakami	MIPEP133	4445
25920 7590 05/29/2008 MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085				
EXAMINER				
HSU, AMY R				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,858

Applicant(s)

NAKAMI, YOSHIHIRO

Examiner

AMY HSU

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-893)
Paper No(s)/Mail Date 1/7/2008
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Arguments

1. Applicant's arguments filed 2/19/2008 have been fully considered but they are not persuasive. Since Claims 1-13 are cancelled and new claims 14-20 are added, new grounds of rejection are necessitated.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 14-15, 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Uchino et al. (US 2002/0008771).

Regarding Claim 14, Uchino teaches an image output apparatus for outputting an image (*Fig. 3 shows an apparatus for outputting an image*) using image data indicative of the image (*from the CCD, reference number 23*) and associated

photographing information set at a generation of the image data (*reference number 112 and 27*), wherein the photographing information includes light metering mode information on a light metering mode (*Fig. 6 S14*), the image output apparatus comprising: a picture quality adjusting unit that performs a picture quality adjustment on the image (*Fig. 5 reference number 32, correction controlling section*), the picture quality adjustment being such that a degree of an adjustment of lightness of a whole image is reduced based on the photographing information if the photographing information indicates that the light metering mode measures a part of the image (*Fig. 7 the adjustment is to a degree corresponding to whether spot metering is done or multi spot metering, and when spot metering is selected for example a person's face, the degree of adjustment such as contrast is limited or reduced to prevent skin color to go outside of normal skin color range, as described in paragraph 64*); and an outputting unit that outputs the image adjusted by the picture quality adjusting unit (*Fig. 3 reference number 21, CPU outputs an adjusted or corrected image to memory or display*).

Regarding Claim 15, Uchino teaches the image output apparatus in accordance with claim 14, wherein the picture quality adjusting unit is configured to perform the picture quality adjustment including the lightness adjustment with a less degree of adjustment in response to the light metering mode information indicating that the light metering mode measures the part of the image than a degree of adjustment in response to the light metering mode information other than the information indicating that the light

metering mode measures the part of the image. When the light metering indicates that multi spot metering, which is other than measuring a part of the image because it is measuring multiple parts of the image, more degree of adjustment is performed as described in paragraphs 59-62, as opposed to a lesser degree or adjustment when spot metering is performed because the adjustment is limited to the smaller area as described in paragraph 63.

Claims 19 and 20 are directed to a method and computer medium with the same limitations of Claim 14 and are therefore rejected similarly.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchino et al. (US 2002/0008771).

Regarding Claim 16, Uchino teaches the image output apparatus in accordance with claim 14, wherein the picture quality adjusting unit is configured to perform the picture quality adjustment including various degrees of lightness adjustment if the photographing information indicates that the light metering mode measures a part of the

image, but does not teach eliminating the lightness adjustment. Uchino teaches that when spot metering is selected, only the spot that was metered should be affected (*paragraph 63*), as opposed to when multi spot metering is selected, the lightness of the entire image should be adjusted as in Fig. 8. One of ordinary skill in the art would recognize that adjusting the entire image from the result of light metering of one small part would result in incorrect brightness of the overall image. Uchino teaches that when spot metering is performed, hue and contrast of the small metered area should be adjusted (*paragraph 63*), which indicates that lightness level of the entire picture should not be adjusted. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to realize that in Uchino's apparatus, the lightness of the image should not be adjusted when spot metering is performed, and only hue and contrast of the spot should be adjusted because it more accurately reflects the intention of the user. For example, when a person with dark skin is in the spot metering area, the lightness of the entire surroundings of the person should not be adjusted, rather the hue of the person's face should be adjusted.

Regarding Claim 17, Uchino teaches the image output apparatus in accordance with claim 14, wherein the light metering mode information represents one of a plurality of metering modes including averaged metering, center-weighted metering, spot metering, multi-spot metering, divisional light metering, and partial light metering, (*Uchino teaches the light metering mode information includes at least one of the plurality which is spot metering and multi spot metering in paragraph 51*) and the

information indicating that the light metering mode measures the part of the image is information indicating spot metering. Although Uchino teaches multi spot metering as the information other than measuring part of the image, it would be obvious to use different combinations of metering methods to correspond to different methods of adjustment. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Uchino to include other types of metering in general and also to use different combinations of metering to indicate a part of the image because since there are many well known methods of metering it would be advantageous for the apparatus taught by Uchino to utilize all the known methods.

Regarding Claim 18, Uchino teaches the image output apparatus in accordance with claim 17, wherein the picture quality adjusting unit is configured to provide a user interface for allowing a user to adjust the metering mode (*paragraph 52*), but does not teach the user can adjust the degree of lightness adjustment if the light metering mode information indicates the center-weighted metering. However, Uchino teaches that ordinarily, spot metering mode is center metering (*paragraph 106*), unless changed, and it spot metering is associated with adjustment of lightness to a degree as determined by the correction controlling section, reference number 32. One of ordinary skill in the art realizes that it is well known for the user to manually adjust settings such as aperture to adjust lightness. It would be obvious to allow the user to manually adjust these settings after selecting the metering mode. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teaching of Uchino to allow the user to

adjust the degree of lightness adjustment by manually changing the degree of adjustment from the aperture, because this would have been obvious to try even by an ordinary user.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMY HSU whose telephone number is (571)270-3012. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Ho can be reached on 571-272-7365. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARH 5/25/08

/Tuan V Ho/

Primary Examiner, Art Unit 2622